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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-ninth session
Agenda item 9

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Mr. Alfonso Martínez, Mr. Ali Khan, Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Mr. Diaz Uribe, Mr. Eide, Mr. El-Hajjé, Ms. Gwanmesia, Mr. Joinet, Mr. Mehedi, Ms. Warzazi and Mr. Yimer: draft resolution

1997/... Privatization of prisons

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its decision 1989/110 of 1 September 1989 and 1992/107 of 27 August 1992,

Recalling also that in its decision 1993/109 of 25 August 1993, the Sub-Commission requested the Commission on Human Rights to authorize it to appoint at its forty-sixth session, one of its members to undertake a special study on this issue,

Mindful of Commission on Human Rights decision 1994/103 of 4 March 1993, in which the Sub-Commission was requested to reconsider its decisions to

recommend a number of new studies, including the one relating to the privatization of prisons, and to submit its recommendations to the Commission at its fifty-first session,

Considering that following the guidance given by the Commission and in order to monitor developments on this issue, the Sub-Commission refrained from submitting new proposals to the Commission on this matter at its forty-sixth, forty-seventh and forty-eighth sessions,

Bearing in mind the working paper submitted by Mr. Miguel Alfonso Martínez in which he made a proposal as to the best possible way for the Sub-Commission to study the issue of privatization of prisons (E/CN.4/Sub.2/1991/56) and the outline prepared by Ms. Claire Palley on the possible utility, scope and structure of a special study on this matter (E/CN.4/Sub.2/1993/21),

Taking into account that in recent years the practice of privatizing penal facilities has been adopted by an increasing number of States and that a wide variety of issues relating to the advantages and disadvantages of the privatization of prisons have been raised and discussed by many sources,

Taking into account also the ample discussion held on this matter during this year's session of its working group on the administration of justice (see E/CN.4/Sub.2/1997/21, paras. 39-45) and the recommendation submitted thereon to the Sub-Commission by the working group (E/CN.4/Sub.2/1997/21, para. 46).

1. Decides to request its parent bodies to authorize it to appoint one of its titular experts as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the rule of law and the possible civil responsibility of enterprises managing private prisons and their employees, a study which should be completed in time for consideration by the Sub-Commission at its fifty-second session;

2. Recommends the following decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, recalling its decision 1994/103 of 4 March 1994 and Sub-Commission on Prevention of Discrimination and Protection of Minorities and decision 1993/109 of 25 August 1993,

endorses the recommendation contained in Sub-Commission resolution 1997/... of .. August 1997 and recommends that the Economic and Social Council authorize the Sub-Commission to appoint one of its titular experts as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the rule of law and the possible civil responsibility of enterprises managing private prisons and their employees, to be completed in time for consideration by the Sub-Commission at its fifty-second session."

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